

SB Civil Writ Petition No.4712/2004

Lal Singh Bhati
v.
State of Rajasthan & Ors.

Date of Order :: 15th December, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.S.Shekhawat]
Mr. P.S.Bhati] for the petitioner.
Mr. L.R.Upadhyay, Dy.Govt.Advocate.

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The petitioner, a member of Rajasthan Police Subordinate Services, undergone Cardiac Surgery at Escorts Heart Institute & Research Centre, New Delhi on 21.5.2001. The petitioner thereafter claimed for reimbursement of expenses incurred in undergoing surgery at Escorts Heart Institute & Research Centre, New Delhi. The respondent State denied for reimbursement of the expenses incurred in surgery at Escorts Heart Institute & Research Centre, New Delhi in view of the provisions of Rule 7(1) of the Rajasthan Civil Services (Medical Attendance) Rules, 1970 (hereinafter referred to as "the Rules of 1970"). Being aggrieved by the same present petition for writ is preferred by the petitioner seeking a direction for the respondents to reimburse the expenses incurred in undergoing Cardiac surgery at Escorts Heart Institute & Research Centre, New Delhi.

It is contended by the petitioner that he went to Delhi on 16.5.2001 for medical check up at

Escorts Heart Institute & Research Centre. On investigation he was admitted at the Centre and was advised to undergo CABG immediately. Looking to serious and critical condition the petitioner was left with no option but to undergo CABG as advised by the medical practitioners at Escorts Heart Institute & Research Centre, New Delhi on 21.5.2001. The petitioner thereafter was discharged on 28.5.2001 from the institute and centre mentioned above in a satisfactory condition. The petitioner in these circumstances was not at all in position to obtain a certificate as required under Rule 7(1) of the Rules of 1970.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the petitioner has undergone Cardiac surgery without obtaining a certificate as required under Rule 7(1) of the Rules of 1970.

Heard counsel for the parties.

A Division Bench of this Court in the case of Shankarlal v. State of Rajasthan, reported in 2000(3) WLC 585, interpreted the provisions of Rule 7(1) of the Rules of 1970. The Division Bench in the case of Shankarlal (supra) held that where it was physically impossible for a government servant to obtain a certificate from any authority to the effect that such

facility is not available within State of Rajasthan then the expenses incurred in such treatment are required to be reimbursed.

In the instant case also the petitioner was investigated at Delhi on 16.5.2001 and he was advised to undergo CABG immediately. The petitioner, therefore, was not at all in a position to obtain any certificate as required under Rule 7(1) of the Rules of 1970. The case of the petitioner, therefore, falls within the parameters of law laid down by the Division Bench of this Court in the case of Shankarlal (supra). The petitioner, therefore, is certainly entitled for reimbursement of the expenses incurred in undergoing surgery at Escorts Heart Institute & Research Centre, New Delhi.

It is stated in reply to the writ petition that a sum of Rs.50,000/- has already been paid to the petitioner, therefore, this amount is to be adjusted while making payment of expenses incurred by the petitioner in getting heart surgery.

Accordingly, the writ petition is allowed. The respondents are directed to make payment of expenses incurred in undergoing surgery by the petitioner at Escorts Heart Institute & Research Centre, New Delhi excluding the amount of Rs.50,000/- already paid to him. The respondents are required to

reimburse the expenses as ordered within a period of three months from today.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.